IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 395 OF 2002.

Shri Tulsidas Soiru Laad,
son of late Soiru Suraj Sina Laad,
aged 61 years, retired School
Headmaster, Indian National,
resident of House No.410,
"Kavery Nivas", Sanvordem Tisk,
Post Curchorem, Goa-403 706,
through its Constituted
Attorney, Shri Audhut Soiru
Laad, resident of Sanvordem,
Goa. .... Petitioner.

VERSUS

1. Shri Saude Vincent
   Rodrigues, major in age,
   resident of "Gadni Bag Xir",
   Sanvordem Tisk, Post -
   Curchorem, Goa.

2. Shri Pascoal Vincent
   Rodrigues, major in age,
   resident of "Gadni Bag Xir",
   Sanvordem Tisk, Post
   Curchorem, Goa.

3. Shri Socorro Vincent
   Rodrigues, major in age,
   resident of "Gadni Bag Xir",
   Sanvordem Tisk, Post -
   Curchorem, Goa. ... Respondents.

Mr. A. F. Diniz, Advocate for the Petitioner.

Mr. M. S. Sonak, Advocate for the Respondents.

CORAM: D.G. DESHPANDE, J.

DATE: 20TH FEBRUARY, 2003.

ORAL JUDGMENT:

Rule. Rule made returnable forthwith by consent of the parties.

2. The original plaintiff in the Suit has filed this Writ Petition challenging the Order of the Trial Court for amendment of the plaint under Order VI, Rule 17 of C.P.C. His prayer was rejected by the Trial Court by misinterpreting Section 16 of the Code of Civil Procedure Amendment Act, 2002 which clearly states that the provisions of Rules 5, 15, 17 and 18 of Order VI of the First Schedule shall not apply to in respect of any pleading filed before the commencement of Section 16 of the Code of Civil Procedure (Amendment) Act 1999 and Section 7 of this Act.

3. Both the Advocates agree that the pleadings in the case were filed before the said Amendment. Consequently the impugned order is set aside.

4. The matter is remanded to the Trial Court for decision according to law and the legal provisions prior to the amendment of Section 16 which shall be taken into consideration while deciding the said application by the Trial Court.

5. Accordingly Rule discharged and the Petition stands disposed of.

sl. **D. G. DESHPANDE, J.**